

REMARKS

The Office Action mailed December 12, 2006 considered claims 1-4, 6 and 8-39. Claim 39 was objected to because of the following informalities: there appears to be a typographical error "infrastructure high capacity" in lines 2, 5 and 7.

Claims 1-11 and 39 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-3, 6, 8, 10-15, 17-27, 29 and 31-38 were rejected under 35 U.S.C. 103(a) as being unpatentable over *West et al.* (US 6,449,722) hereinafter *West* in view of *Fox et al.* (US 6,654,786) hereinafter *Fox*. Claims 12-20 were rejected under the same rationale as claims 1-3, 5-8, 10 and 11, since they recite substantially identical subject matter. Claims 22, 24, 27, 29, 31-33 and 35 were rejected under the same rationale as claims 1-3, 5-8, 10 and 11, since they recite substantially identical subject matter. Claims 4 and 28 were rejected under 35 U.S.C. 103(a) as being unpatentable over *West* in view of *Fox*. Claims 9, 16 and 30 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Fox* in further view of *Hibbard* (US 2001/0056503) hereinafter *Hibbard*.¹

By this amendment claims 1, 8-10, 12-18, 21-27, 29, 30, 32-35, and 37-39 have been amended.² Claim 6 has been cancelled.

The present invention is generally directed to routing notifications to mobile devices. . For example, claim 1 defines communicating with a wireless device over a first communication channel. The communication is indicative of notifications for the wireless device being routable over the first communication channel. Next, claim 1 defines receiving subsequent communication through a network device, the subsequent communication notifying the notification server that the wireless device has access to the second communication channel. The subsequent communication includes a network device address for the network device to indicate to the notification server that notifications for the wireless device are also routable to network device address over the second communication channel. The first communication channel has higher availability and lower bandwidth relative to the second communication channel.

¹ Although the prior art status of the cited art is not being challenged at this time, Applicant reserves the right to challenge the prior art status of the cited art at any appropriate time, should it arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

² Support for the amendments to the claims are found throughout the specification and previously presented claims, including but not limited to paragraphs [0029] – [0039] and Figures 2 & 3.

Claim 1 further defines accessing a notification indicative of a change to a data object in the corresponding data store. The notification is accessed after receiving the subsequent communication through the network device and is for delivery to the wireless device. Next, claim 1 defines automatically determining an appropriate communication channel, from among the first and second communication channels, over which to route the notification to the wireless device. The determination is based on the size of the notification and the current availability of the first and second communication channels. Lastly, claim 1 defines routing the notification over the appropriate communication channel for delivery to the wireless device in response to determining the appropriate communication channel based on the size of the notification and the current availability of the first and second communication channels.

Claim 1 is from the perspective of a notification server. Claims 12 recite a method similar to claim 1 using functional language from the perspective of a proxy. Claims 11 and 20 are directed to corresponding computer program product claims for implementing the methods recited in claims 1 and 12, respectively.

35 USC 103 Rejections

Claim 1 was rejected under 35 U.S.C. 103(a) as being unpatentable over *West* in view of *Fox*.

West discloses a system and method for maintaining a virtual connection to a network node. A user can select alternative connectivities when available based on dollar expense, available bandwidth, reliability, latency, or other considerations. Volume data delivery can be delayed. (Abstract). With respect to wireless devices, a basic hand-off algorithm is described. (Col. 3, ll. 45 – 54). Further, when connectivity is changed all communication is sent over the new connectivity. (Col. 4, ll. 33-67). *West* does not disclose an ability to select between different connectivities at the time data (e.g., a notification) is received.

Fox discloses an embodiment in which a GSM wireless network switches channels between a main channel and an IWF channel.³

Accordingly, the cited art fails either singly or in combination to disclose or otherwise suggest automatically determining an appropriate communication channel, from among the first and second communication channels, over which to route the notification to the wireless device,

³ In a prior Examiner interview, it was established that the IWF channel in *Fox* is not the internet, particularly since *Fox* discloses that the IWF channel is more expensive than the main channel, and inasmuch as the present application makes it clear that the second high capacity channel, such as the Internet, is less expensive than the first channel. (*Fox* Col. 12, ll. 46-54, Application p. 4, ll. 11-12).

the determination based on the size of the notification and the current availability of the first and second communication channels, as recited in claims 1 and 12.

35 USC 112 Rejections

The preambles of claims 1 and 12 have been amended to clarify the perspective of where the acts and steps of claims 1 and 12 are performed.

Other Claim Objections

Claim 39 has been amended to correct the identified informalities.

In view of the foregoing, Applicant respectfully submits that the other rejections to the claims are now moot and do not, therefore, need to be addressed individually at this time. It will be appreciated, however, that this should not be construed as Applicant acquiescing to any of the purported teachings or assertions made in the last action regarding the cited art or the pending application, including any official notice. Instead, Applicant reserves the right to challenge any of the purported teachings or assertions made in the last action at any appropriate time in the future, should the need arise. Furthermore, to the extent that the Examiner has relied on any Official Notice, explicitly or implicitly, Applicant specifically requests that the Examiner provide references supporting the teachings officially noticed, as well as the required motivation or suggestion to combine the relied upon notice with the other art of record.

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney at 801-533-9800.

Dated this 12th day of April, 2007.

Respectfully submitted,



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